

the employee) a qualifying student loan as described in § 537.106(b) previously taken out by such employee. The dollar value of this benefit is the gross amount credited to the employee at the time of a loan payment to the holder of the student loan, before deducting any employee tax withholdings from that gross amount as described in § 537.106(a)(6)(iii). A student loan repayment benefit is not considered basic pay for any purpose.

Time-limited appointment means a non-permanent appointment including—

(1) A temporary appointment under 5 CFR part 316, subpart D, or similar authority;

(2) A term appointment under 5 CFR part 316, subpart C, or similar authority;

(3) An overseas limited appointment with a time limitation under 5 CFR part 301, subpart B;

(4) A limited term or limited emergency appointment in the Senior Executive Service, as defined in 5 U.S.C. 3132(a), or an equivalent appointment made for similar purposes;

(5) A Veterans Recruitment Appointment under 5 CFR part 307;

(6) A Presidential Management Fellow appointment under 5 CFR 213.3102(ii) and 5 CFR 213.3102(jj);

(7) A Federal Career Intern appointment under 5 CFR 213.3202(o); and

(8) An appointment under the fellowship and similar programs authority at 5 CFR 213.3102(r).

§ 537.103 Agency student loan repayment plans.

Before providing student loan repayment benefits under this part, an agency must establish a student loan repayment plan. This plan must include the following elements:

(a) The designation of officials with authority to review and approve offering student loan repayment benefits (which may parallel the approval delegations used for other recruitment, relocation, and retention incentives);

(b) The situations in which the student loan repayment authority may be used;

(c) The criteria to meet or consider in authorizing student loan repayment benefits, including criteria for deter-

mining the size and timing of the loan payment(s);

(d) A system for selecting employees (or job candidates) to receive student loan repayment benefits that ensures fair and equitable treatment;

(e) The requirements associated with service agreements (including a basis for determining the length of service to be required if it is greater than the statutory minimum);

(f) The procedures for making loan payments;

(g) The provisions for recovering any amount outstanding from an employee who fails to satisfy a service agreement and conditions for waiving an employee's obligation to reimburse the agency for payments made under this part; and

(h) Documentation and record-keeping requirements sufficient to allow reconstruction of each action to approve a student loan repayment benefit.

§ 537.104 Employee eligibility.

(a) Subject to the conditions in 5 U.S.C. 5379 and this part, an authorized agency official may approve student loan repayment benefits to recruit a highly qualified job candidate or retain a highly qualified employee who, during the service period established under a service agreement (consistent with § 537.107), will be serving under—

(1) An appointment other than a time-limited appointment; or

(2) A time-limited appointment if—

(i) The employee (or job candidate) will have at least 3 years remaining under the appointment after the beginning of the service period established under a service agreement; or

(ii) The time-limited appointment authority leads to conversion to another appointment of sufficient duration so that his or her employment with the agency is projected to last for at least 3 additional years after the beginning of the service period established under a service agreement.

(b) An employee occupying a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character is ineligible for student loan repayment benefits.

(c) An employee becomes ineligible for student loan repayment benefits

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under the conditions described in § 537.108.

§ 537.105 Criteria for payment.

(a) *General criteria.* Before authorizing student loan repayment benefits for an employee (or job candidate), an agency must make a written determination that—

(1) The employee (or job candidate) is highly qualified and otherwise eligible (as described in § 537.104); and

(2)(i) In a case where the authorization is granted to recruit a job candidate to fill an agency position, the agency otherwise would encounter difficulty in filling a position with a highly qualified individual; or

(ii) In a case where the authorization is granted to retain a current employee of the agency, the employee otherwise is likely to leave the agency for employment outside the Federal service and it is essential to retain the employee based on the employee's high or unique qualifications or a special need of the agency.

(b) *Retention considerations.* In making a determination under paragraph (a)(2)(ii) of this section, an agency must consider the extent to which the employee's departure would affect the agency's ability to carry out an activity or perform a function that is deemed essential to its mission.

(c) *Current Federal employees.* An agency may not authorize student loan repayment benefits to recruit an individual from outside the agency who is currently employed in the Federal service.

(d) *Selecting employees.* When selecting employees (or job candidates) to receive student loan repayment benefits, agencies must ensure that benefits are awarded without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition.

§ 537.106 Conditions and procedures for providing student loan repayment benefits.

(a) *General conditions.* (1) Student loan repayment benefits may be provided at the discretion of the agency and are subject to such terms, limitations, or conditions as may be mutually agreed to in writing by the agency

and the employee (or job candidate) as part of a service agreement under § 537.107.

(2) The student loan to be repaid must be a qualifying student loan as set forth in paragraph (b) of this section.

(3) The agency must document in writing each approval of student loan repayment benefits. An authorized agency official must review and approve each written determination. The written determination must show the employee (or job candidate) meets the criteria specified in § 537.105.

(4) An authorized agency official must approve student loan repayment benefits in connection with a recruitment action before the job candidate actually enters on duty in the position for which he or she was recruited. The agency and the job candidate may sign the service agreement consistent with § 537.107 before the job candidate begins serving in the position, but the agency may not begin making loan payments until the job candidate begins serving in the position.

(5) Student loan repayment benefits are in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

(6) Appropriate tax withholdings must be deducted or applied at the time any payment is made. Since these tax implications could create a financial hardship for the recipient of the student loan repayment benefit, agencies may lessen the impact of tax withholdings on an employee's paycheck in one of the following ways:

(i) Make smaller payments at periodic intervals throughout the year, rather than issue payments under this part in one lump sum;

(ii) Allow the employee to write a check to the agency to cover his or her tax liability, rather than have the tax liability withheld from the employee's paycheck;

(iii) Deduct the amount of taxes to be withheld from the student loan repayment benefit before the balance is issued as a loan payment to the holder of the loan.

NOTE TO § 537.106(a)(6): Contact the Internal Revenue Service for further details concerning these options, as well as the tax